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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,769	12/27/2001	Shuang Liu	DM-6950	9943

23914 7590 02/09/2004  
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EXAMINER

JONES, DAMERON LEVEST

ART UNIT PAPER NUMBER

1616

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/033,769	LIU, SHUANG	
	<b>Examiner</b>	<b>Art Unit</b>	
	D. L. Jones	1616	

-- Th MAILING DATE of this communication app ars on the cover sheet with th correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/12/03; 10/28/03; and 11/4/03.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-110 is/are pending in the application.
- 4a) Of the above claim(s) 2,10-14,16,23-26,28-38,40-65,88,90 and 92-110 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-9,15,17-22,27,39 and 66-86 is/are allowed.
- 6) ☒ Claim(s) 87,89 and 91 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/12/03</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

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## ACKNOWLEDGMENTS

1. The Examiner acknowledges receipt of the following:
  - a. the information disclosure statement filed 10/28/03;
  - b. the acceptable sequence listing; and
  - c. the amending of claims 29, 41, 87, and 89.

**Note:** Claims 1-110 are pending.

## RESPONSE TO APPLICANT'S AMENDMENT/ARGUMENTS

2. The Applicant's arguments filed 10/28/03 to the rejection of claims 29-34, 41-46, 87, and 89 made by the Examiner under 35 USC 103 and/or 112 have been fully considered and deemed persuasive because Applicant has amended the claims to overcome the rejections. Therefore, the said rejections are hereby withdrawn.

**Note:** The Examiner has once again expanded the search to encompass the first species of claim 91 encompassed in independent claim 87 having the formula  $A[(CR^{17}R^{18})_kNH_2]_m$  wherein  $A = R^1C$ ;  $R^1 = CH_3$ ;  $R^{17}$  and  $R^{18}$  are hydrogen;  $k = 3$ ; and  $m = 3$

## WITHDRAWN CLAIMS

3. Claims 2, 10-14, 16, 23-26, 28,-38, 40-65, 88, 90, and 92-110 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected species.

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## NEW GROUNDS OF REJECTION

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 87, 89, and 91 are rejected under 35 U.S.C. 102(b) as being anticipated by Angus et al (Inorganic Chemistry, 1999, Vol. 7, pages 1131-1136).

**Angus et al** disclose the synthesis and properties of cobalt(III) complexes of tripodal ligands containing amide functional groups (see entire document, especially, abstract). In particular, Angus et al disclose the compound 2-(aminomethyl)-2-methyl-1,3-propanediamine on page 1132 that is used to synthesis cobalt(III) complex. The compound 2-(aminomethyl)-2-methyl-1,3-propanediamine disclosed in Angus et al is the same compound that is the first species of Applicant's claim 91.

## ALLOWABLE CLAIMS

6. Claims 1, 3-9, 15, 17-22, 27, 39, and 66-86 are allowable over Applicant's elected species and the species represented as EXP#1 in the office action mailed 7/29/03.

**Elected species:** the chelant is tripodal; the spacer, A, is N; E1, E2, and E3 are

(CH<sub>2</sub>)<sub>k</sub>-NHCOCH<sub>2</sub>N(CH<sub>2</sub>COOH)<sub>2</sub>; and the radionuclide is <sup>90</sup>Y.

**EXP #1:** A = R<sub>1</sub>-C, R<sub>1</sub>-Si, R<sub>1</sub>-Ge, N, P, and P(O);

E1, E2, and E3 = (CR<sub>17</sub>R<sub>18</sub>)<sub>k</sub>-Z-X-(CR<sub>19</sub>R<sub>20</sub>)NR<sub>21</sub>R<sub>22</sub>;

$k = 0 - 3$ ;

Z = bond, O, NH, NR1NR1, ONH, N(OR1);

X = P(O)(OR1)

I = 1 - 3; and

R1 and R17-R22 are as set forth in the claims.

#### COMMENTS/NOTES

7. The lined through reference on Applicant's information disclosure statement filed 9/12/03 was not present in the file during examination. If Applicant would like the reference considered, it is respectfully requested that a copy be submitted for review.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

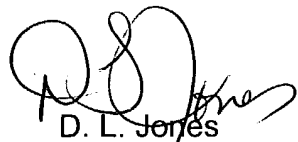
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (571) 272-0617. The examiner can normally be reached on Mon.-Fri., 6:45 a.m. - 3:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
D. L. Jones  
Primary Examiner  
Art Unit 1616

February 6, 2004